

Wage and Hour Division, Labor

§ 780.8

courts or conclude, upon reexamination of an interpretation, that it is incorrect.

§ 780.6 Basic support for interpretations.

The ultimate decisions on interpretations of the Act are made by the courts (*Mitchell v. Zachry*, 362 U.S. 310; *Kirschbaum v. Walling*, 316 U.S. 517). Court decisions supporting interpretations contained in this bulletin are cited where it is believed they may be helpful. On matters which have not been determined by the courts, it is necessary for the Secretary of Labor and the Administrator to reach conclusions as to the meaning and the application of provisions of the law in order to carry out their responsibilities of administration and enforcement (*Skidmore v. Swift*, 323 U.S. 134). In order that these positions may be made known to persons who may be affected by them, official interpretations are issued by the Administrator on the advice of the Solicitor of Labor, as authorized by the Secretary (Reorg. Pl. 6 of 1950, 64 Stat. 1263; Gen. Ord. 45A, May 24, 1950; 15 FR 3290; Secretary's Order 13-71, May 4, 1971, FR; Secretary's Order 15-71, May 4, 1971, FR). Interpretative rules under the Act as amended in 1966 are also authorized by section 602 of the Fair Labor Standards Amendments of 1966 (80 Stat. 830), which provides: "On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act." As included in the regulations in this part, these interpretations are believed to express the intent of the law as reflected in its provisions and as construed by the courts and evidenced by its legislative history. References to pertinent legislative history are made in this bulletin where it appears that they will contribute to a better understanding of the interpretations.

§ 780.7 Reliance on interpretations.

The interpretations of the law contained in this part are official interpretations which may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947. In addition, the Su-

preme Court has recognized that such interpretations of this Act "provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" and "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance." Further, as stated by the Court: "Good administration of the Act and good judicial administration alike require that the standards of public enforcement and those for determining private rights shall be at variance only where justified by very good reasons." (*Skidmore v. Swift*, 323 U.S. 134). Some of the interpretations in this part are interpretations of exemption provisions as they appeared in the original Act before amendment in 1949, 1961, and 1966, which have remained unchanged because they are consistent with the amendments. These interpretations may be said to have congressional sanction because "When Congress amended the Act in 1949 it provided that pre-1949 rulings and interpretations by the Administrator should remain in effect unless inconsistent with the statute as amended. 63 Stat. 920." (*Mitchell v. Kentucky Finance Co.*, 359 U.S. 290; accord, *Maneja v. Waialua*, 349 U.S. 254.)

§ 780.8 Interpretations made, continued, and superseded by this part.

On and after publication of this part 780 in the FEDERAL REGISTER, the interpretations contained therein shall be in effect and shall remain in effect until they are modified, rescinded, or withdrawn. This part supersedes and replaces the interpretations previously published in the FEDERAL REGISTER and Code of Federal Regulations as this part 780. Prior opinions, rulings, and interpretations and prior enforcement policies which are not inconsistent with the interpretations in this part or with the Fair Labor Standards Act as amended by the Fair Labor Standards Amendments of 1966 are continued in effect; all other opinions, rulings, interpretations, and enforcement policies on the subjects discussed in the interpretations in this part are rescinded and withdrawn. The interpretations in this part provide statements of general